

FILED

Attachment 2 - EEOC Complaint # 12-05

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
Civil Right DIVISION

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY CR
DEPUTY CLERK

FIRST AMENDMENT COMPLAINT

Mahmood Husam Altabra

civil case# 1:22cv01247 RP

4008 Ignacio Drive Austin Texas 78744

(Name of plaintiff or plaintiffs)

Civil Action Number:

v.

(Supplied
by Clerk's Office)

University of Texas in Austin

3101 manor road Austin Texas 78722

Richard Eaves

303 pack horse dr, Bastrop, TX, 78602

125 forsythia trl, Bastrop, TX, 78602

Richard.eaves@austin.utexas.edu

512-575-0789

Randall Kobza

7106 S Brook Dr, Austin, TX, 78736

21200 newton Dr, lagoon vista, TX, 78645

Michael Rodriguez

2109 San Jacinto Blvd, Austin, TX, 78712

Michael.rodriguez@athletics.utexas.edu

512-748-7276

(Name of defendant or defendants)

FIRST AMENDMENT COMPLAINT

1. This action is brought by Mahmood Altabra_____, Plaintiff,
pursuant to the following selected jurisdiction:

(Please select the applicable jurisdiction)

☒ Title VII of the Civil Rights Act of 1964 (42 USC §§ 2000e et seq.) Employment
Discrimination on the basis of race, color, sex (gender, pregnancy and sexual harassment),
religion or national origin.

☒ Under 42 USC section 1981 for racial and national origin harassment.

☐ The Age Discrimination in Employment Act (29 USC §§ 621 et seq.) (**ADEA**).

☐ The Americans With Disabilities Act (42 USC §§ 12102 et seq.) (**ADA**).

☐ The Equal Pay Act (29 USC § 206(d)) (**EPA**).

☐ The Rehabilitation Act of 1973 (29 USC §791 et seq.) (Applicable to federal employees
only).

Defendant University of Texas in Austin_____(Defendant's name) lives at, or its business is
located at Texas_____ (street address), 3101 manor road _____(city), Austin_
(state), Texas__(zip) 78722 .

V.

Richard Eaves

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125 forsythia trl, Bastrop, TX, 78602

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512-575-0789

Randall Kobza

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21200 newton Dr, lagoon vista, TX, 78645

512-922-1749

Michael Rodriguez

2109 San Jacinto Blvd, Austin, TX, 78712

Michael.rodriguez@athletics.utexas.edu

512-748-7276

3a. Plaintiff sought employment from the defendant or was employed by the defendant at 3101 Manor Road ____ (street address), (city), Austin ____ (state) Texas, (zip) 78722.

3b. At all relevant times of claim of discrimination, Defendant employed 1500 (#) employees. If defendant is a union, at all relevant times of claim of discrimination, Defendant had 1500 (#) members.

4. Defendant discriminated against plaintiff in the manner indicated in paragraph 8 of this complaint on or about September ____ (month) 17 ____ (day) (year) 2021. If incidents of discrimination occurred more than one day, please indicate the beginning and ending dates of such acts: _

10-2020

7-3 -2020

9- 7- 2020

9 -2-2020

9 -2-2021

2-26-2021

3-8-2021,

3-26-2021

4-9-2021

5-25-2021

6-4-2021

6-15-2021

During the months of June and July of 2021,

7-28-2021

9-7-2021

9-9-2021

9-13 -2021

9-17-2021.

5. Plaintiff filed charges against the defendant with the Equal Employment Opportunity Commission (E.E.O.C.) charging defendant with the acts of discrimination indicated in paragraph 7 of this complaint on or about April (month) 6 ____ (day) 2021 ____ (year). (Not applicable to federal civil service employees).
Second charge was about -----December- 23-2021

6a. The E.E.O.C. issued a **Notice of Right to Sue** which was received by plaintiff on (month) September ____ (day) 20 ____ (year) 2022 . (Not applicable to ADEA and EPA claims or federal civil service employees).
Second right to sue letter was also on September -20-2022

VERY IMPORTANT NOTE: PLEASE ATTACH A COPY OF YOUR NOTICE OF RIGHT TO SUE AND THE ENVELOPE IN WHICH IT WAS RECEIVED TO THIS COMPLAINT.

6b. Please indicate below if the E.E.O.C issued a **Determination** in your case:

☐ Yes

☒ No

VERY IMPORTANT NOTE: IF YOU CHECKED "YES", PLEASE ATTACH A COPY OF THE E.E.O.C.'S DETERMINATION TO THIS COMPLAINT

7. Because of plaintiff's:

(Please select the applicable allegation(s))

☒ Race (If applicable, state race) _____

☐ Color (If applicable, state color) _____

- ☐ Sex (gender, pregnancy or sexual harassment) (If applicable, state sex and claim)
- ☒ Religion (If applicable, state religion) _____
- ☒ National Origin (If applicable, state national origin) _____
- ☐ Age (If applicable, state date of birth) _____
- ☐ Disability (If applicable, state disability) _____
- ☒ Prior complaint of discrimination or opposition to acts of discrimination.
(Retaliation) (If applicable, explain events of retaliation) before I filed a charge of discrimination with EEOC on 4-6-2021, I faced retaliation behaviors from my supervisor and the university please read the events below.

A- On September -2-2020, I have incident with the director of maintenance at the stadium building his name Michael Rodriguez, he was harassing and bullying me every time I go do work on his building, he even told me “we don’t need you here, you will not get paid for the work hours you spent here” I reported to HR and inclusion office, they did nothing about it, see exhibit (4)

B- On September -2-202, my supervisor Richard eaves asked me to move to different department, because I complaint about Michael Rodriguez. I refused to move, see exhibit (5)

C- My supervisor Band me from doing work at the stadium building. After that I complaint to HR against my supervisor because he was bias and sided with Michael Rodriguez, my supervisor band me from doing at that building. This is clear evidence of retaliation because he banding me from doing work in specific building and asking me to leave the department and he knows we are going to lose one of our technicians his name rodny Bettler because he will be retired in couple months and we will be short in stuff soon, No action taken from the university, all this info documented on emails.

D- On 3-8-2021 I complained to HR against my supervisor's retaliation. I indicated In my complaint my supervisor didn't assign a car for me to do my job off campus, there are five buildings off campus I have to visit weekly, and I was borrowing cars from my coworkers to do my job. There are three employees their names E.J TORREZ , JASON FLOYD and ADAM SERNA they all got hire after me and they all received their cars after 2 months of their employment, this is clear evidence showing retaliation and the poor treatment I was facing in my department. No action taken from the university, all this info documented on emails. see exhibit (8)

E- On 3-26-2021, my supervisor start retaliates against me by not approving my timesheet hours and that pushed me to contact payroll to approve my hours. Payroll corrected the hours and told me that the problem was my supervisor didn't approve my work hours, all this info documented on emails. I complained to HR about see exhibit (9) and exhibit (10)

F- On 4-6-2021 I filed charge of discrimination with EEOC against the university; this charge indicated the incidents above. See exhibit (13)

Below evidence for Retaliation claim

- 1- There are only 5 months between my first EEOC charge of discrimination which was on 4-6-2021 and my termination 9-17-2021. See exhibit (13) and (30)
- 2- The university issued disciplinary letter to me for three reasons one of the reason was because I sent email to my coworkers complained about the discrimination I was facing in the workplace. The university put that in the disciplinary letter in written, this is clear evidence of retaliation. see exhibit file (26) fold 2
- 3- On September -2-202, my supervisor Richard eaves asked me to move to different department, because I complaint about Michael Rodriguez. see exhibit (5)
- 4- After I refused to move to different department my supervisor Band me from doing work at the stadium building. After that I complaint to HR against my supervisor because he was bias and sided with Michael Rodriguez, my supervisor band me from doing at that building. This is clear evidence of retaliation because he banding me from doing work in specific building and asking me to leave the department and he knows we are going to lose one of our technicians his name rodny Bettler because he will be retired in couple months and we will be short in stuff soon, No action taken from the university, all this info documented on emails.

- 5- On 3-26-2021, my supervisor start retaliates against me by not approving my timesheet hours and that pushed me to contact payroll to approve my hours. Payroll corrected the hours and told me that the problem was my supervisor didn't approve my work hours, all this info documented on emails. I complained to HR about see exhibit (9) and exhibit (10)

[4. similarly situated individuals outside the plaintiff's [race] [color] [religion] [sex] [national origin] were treated more favorably.]

- 6- On 5-3-2021 my coworker Michael Brown came up to me and told me that the legal department sent to him and other coworkers an email telling them "to not remove anything related to Mahmood's employment from their emails", "and he stated "the email sound bad and its look like they don't want to help me out" I asked him to show me that email but he refused. So I would like to request subpoena of document, because that email will reveal the truth to the court.

- 7- On 6-4-2021 my supervisor start retaliate against me when he started applying new policy on me when he asked me to request a work order before I start working on anything, which this never happened before he never told us that before. As I explained to HR usually when we found emergency issue we start working on it and then call the shop to request a work order, No action taken from the university, all this info documented on emails. I would like to request a motion of witness to my coworker Armando Ortiz to confirm what I am saying. I reported to HR, see exhibit (15)

[4. similarly situated individuals outside the plaintiff's [race] [color] [religion] [sex] [national origin] were treated more favorably.]

- 8- On 6-15-2021, the university closed my complaint against my supervisor, that's clear evidence of retaliation from the university. see exhibit (17)
- 9- On 9-3-2021, I emailed the investigation department asking them to provide answers to my questions about three cases Michael Rodriguez, my supervisor and Randall Kobza. Also I informed them that I had meeting with inclusion office regarding those three cases and they told me they can't pursuit any investigation that in process with the investigation department and I should contact the investigation department to ask. See exhibit (23)
- 10- On 9-7-2021, the investigation department responds to me saying they didn't handle the complaint regarding Michael Rodriguez, and the inclusion office closed it on 10-22-2020. And they added my recent complaints regards my supervisor and Randall Kobza are still open. See Exhibit (24) Same day on 9-7-2021 I sent email to both departments inclusion office and investigation department also the president informed them. The inclusion office told me the case regarding Michael Rodriguez transferred to investigation department and they close it. And after I contacted the investigation department and asked them about Michael Rodriguez's case they told me they didn't handle that case and the inclusion office closed the case on 10-22-2020, also they added that both cases regarding Michael Rodriguez and Richard eaves still pending!!! See exhibit (25)

Your Honor, if you see exhibits (23) , (24) and (25) it will showing both departments passing the buck and didn't want to tell me the truth, Inclusion office told me Michael Rodriguez's case transferred to investigation department and they closed it. The investigation department told me they didn't handle Michael Rodriguez's case and the inclusion office closed the case on 10-22-2020. Also the investigation department told me Randall kobza's case still open and I know the university closed that case on 7-13-2021 and they gave him

diversity online training, see exhibit (24) in addition to that he retired on September -1- 2021 so why his case still open! That doesn't make any sense! Also the investigation department told me that my supervisor's retaliation case still open and I know the university closed the case regarding my supervisor's retaliation on 6-15-2021, because I received email from Maali Mona intake with investigation department on 6-15-2021 saying the university closed the case regarding my supervisor's retaliation. See exhibit (17) From above incidents its very clear conclusion that both departments were passing the buck and didn't want to tell me the truth and this is a very clear evidence of retaliation and negligence from the university.

11- On Thursday 9-9-2021 my supervisor issued a disciplinary letter to me this letter full of false information and accusations, he asked me to response to his letter on Friday 9-10-2021 the response should be I accept the letter and keep my job or resign. see exhibit (26)

[4. similarly situated individuals outside the plaintiff's [race] [color] [religion] [sex] [national origin] were treated more favorably.]

12- On 9-17-2021 the university terminated my employment considered me insubordinate to my supervisor's instructions, because I disputed two folds in the disciplinary letter. Basically they want me to admit things I never did it or Resign. See exhibit (30)

Below evidence for Pervasive harassment /hostile work environment and negligence claim

- 1- On October -2020 I was with my coworker Armando Ortiz working in the mechanical room at Belmont Building. Randal Kobza showed up in the mechanical room and he was eating pistachios and start throwing pistachio shells on me I told him “stop doing that I am not your trash cane “this happened in front of my coworker Armando Ortiz we can request subpoena witness later. Also I reported this incident to the investigation department to Mona Maali on March 2021 using zoom interview meeting.

Texas Penal Code - PENAL § 42.07. Harassment (A) person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another.

- 2- On July-3 -2020, I have another incident with my coworker Randall Kobza he came up to me and made joke about my language’s comprehensive in front of my coworkers by saying “Do you know why you the only person laughing here ? I asked him why? He answered because you have language barriers” I reported it to my supervisor, also I reported another incident with another coworker her name dabbi manning she was making joks about how I write my work order, I reported both incidents to my supervisor. No action taken from the university see exhibit (2)

See also Swinton v. Potomac Corp., 270 F.3d 794, 803-05 (9th Cir. 2001).

Employer is liable if the employer (or its “management”) knew or should have known of the harassing conduct and failed to take reasonably prompt corrective action to end the harassment. Swinton, 270 F.3d at 803-04

- 3- On September- 7- 2020 again I have another incident with Randall Kobza, he came up to me in the workplace and he gave me a weird look, I asked him do you hate me? He looks at me and answered "I don't hate you, fucking Arabs" and he left. I reported to the investigation department on march-22-2021. Also I indicated it in my mail on 9-1-2021. No action taken from the university. everything documented see exhibit (3)

The employer knew and known of the harassment and failed to take adequate remedial action. Id. at 678

- 4- On September -2-2020, I have harassment incident with another employee he is the director of maintenance at the stadium building his name Michael Rodriguez, he was harassing and bullying me every time I go do work on his building, he even told me "we don't need you here you will not get paid for the work hours you spent here" I reported to HR and inclusion office, they did nothing about it, see exhibit (4)

"show that the employer knew or should have known of the harassment and took no effectual action to correct the situation." Mockler, 140 F.3d at 812 (citations omitted).

- 5- On 2-26-2021, again which is the third time my coworker Randall Kobza he called me a "Terrorist and accused me bombing a childcare building in Iraq" I have a witness his name Michael Brown for that incident and he submitted his testimony to my supervisor written and signed by him on march -1-2021, I reported this incident to HR on 2-26-2021, this is clear evidence showing the pervasive harassment I was dealing with in the workplace, all this info documented on emails. see exhibit (6)

The employer failed to take prompt remedial measures. See Hill v. New Alenco Windows, Ltd., 716 F. Supp. 2d 582, 601 (S.D. Tex. 2009);

- 6- On 4-9-2021, again I have another harassment incident from Randall Kobza, during the work hours I was in in front of our department trying to backing up my car, Randall Kobza drove very fast and very close to me to park beside my car while there was a lot of empty spots in the parking lot, he was so close to my car that forced me to stop my car to prevent the incident, also when he parked beside my car he didn't left enough space between my car and his car, I couldn't even open my door to get out my car, he left two feet between my car and his car. I reported to HR and as usual no Action was taken. This showing the pervasive harassment and the continued offensive behaviors I was dealing with in the work space. See exhibit (14)

"The harassment's temporal proximity is very close." Strong v. Univ. Healthcare System, L.L.C., 482 F.3d 802, 808 (5th Cir. 2007).

- 7- On 5-25-2021, when I came to my desk in the morning around 7.30 am I saw all the trash in the shop get dumped underneath my chair and my desk. I called my supervisor and showed him the hate and the harassment I was facing; he looked at it and kept silent and left to his office. On 6-30-2021, I reported this incident to HR and investigation department, and as usually no action has been taken. If the university wants to know who did that, they could easily found out, because we have a schedule for cleaning the shop every day, and if they checked the schedule they will be able to see the person who was responsible for the cleaning that day, which was Randal Kobza. But they didn't care. That's how the university supported and maintained the hostile work environment in the workplace which affected me mentally. Some days when I wake up in the morning and heading to the work its look like I was heading to the jail. I have a witness his name Michael brown he saw the trash underneath my desk and the chair while all the shop was clean. See exhibit file (40)

Plaintiff able to make a prima facie hostile work environment claim could showing that the employer failed to take action against a known harassment issue. Plaintiff. Hill, 716 F. 3d at 602.

8- On 7-28-2021 again I have another incident with Randal Kobza on the workplace he came to me and approached me in confrontation attitude and offensive body language, like someone who want to start a physical fight, while I was walking out the bathroom and he told me "Are you ok " it was so weird because we never talked since the incident happened when he called me a terrorist, he was harassing me and he tried to provoke me , this is clear evidence of the pervasive harassment and the hostile work environment I was dealing with, I reported to HR and as usual No action taken from the university, all this info documented on emails, see exhibit (20)

"The harassment's temporal proximity is very close." Strong v. Univ. Healthcare System, L.L.C., 482 F.3d 802, 808 (5th Cir. 2007).

Below evidence for Discrimination claim.

1- On 3-8-2021, I complained to HR against my supervisor's discrimination. I indicated In my complaint my supervisor didn't assign a car for me to do my job off campus, there are five buildings off campus I have to visit weekly, and I was borrowing cars from my coworkers to do my job. There are three employees their names E.J TORREZ , JASON FLOYD and ADAM SERNA they all got hire after me and they all received their cars after 2 months of their employment, this is clear evidence showing my supervisor treated me differently from others. No action taken from the university, all this info documented on emails. see exhibit (8)

To establish a prima facie case of disparate treatment under Title VII, a plaintiff must show "(1) he is a member of a protected class; (2) he was qualified for his position; (3) he experienced an adverse employment action; and (4) similarly situated individuals outside his protected class were treated more favorably."
Berry v. Dep't of Soc. Servs., 447 F.3d 642, 656 (9th Cir. 2006)

- 2- The university failed to discipline Randal Kobza, my supervisor or Michael Rodriguez who all bullied, harassed and discriminated and retaliated against me. On the other hand the university disciplined me with 12 months without raise and terminated my employment for no reason. This is showing the double standards and the discriminatory and retaliatory conduct they applied against me.

[4. similarly situated individuals outside the plaintiff's [race] [color] [religion] [sex] [national origin] were treated more favorably.]

- 3- On 12-9-2020 I applied to Supervisor, Building Optimization Team position and on 4-5- 2021, I applied to Project Manager position, but unfortunately the university discriminated and retaliated against me they didn't even send me an email saying I am not selected to the positions I applied for, see exhibit (42)

On July- 2021 I applied to instrument and control technician II position in my department and my supervisor chose my coworker who has lower skills than mine. My supervisor told me, "he chose him based on seniority"

On 7-21-2021 I complained to the inclusion office and the investigation department about the discrimination in the hiring process, see exhibit (19)

No action taken from the university, all this info documented on emails.

This is clear evidence of discrimination.

- 4- On Thursday 9-9-2021 my supervisor issued a disciplinary letter to me this letter full of false information and accusations, he asked me to respond to his letter on Friday 9-10-2021 the response should be I accept the letter and keep my job or resign. see exhibit (26)

There is similarly situated individuals outside his protected class were treated more favorably." Berry v. Dep't of Soc. Servs., 447 F.3d 642, 656 (9th Cir. 2006)

5- On 9-17-2021 the university terminated my employment considered me insubordinate to my supervisor's instructions, because I disputed two folds in the disciplinary letter. Basically they want me to admit things I never did it or Resign. See exhibit (30)

The defendant: **(please select all that apply)**

☐ failed to employ plaintiff.

☒ terminated plaintiff's employment.

☒ failed to promote plaintiff.

☒ harassed plaintiff.

☒ other (specify) Discriminated and retaliated plaintiff.

8a. State **specifically** the circumstances under which defendant, its agent, or employees discriminated against plaintiff **PERSONALLY**:

VERY IMPORTANT NOTE: INCLUDE **SPECIFIC DATES, SPECIFIC EVENTS,**
AND ANY SPECIFIC COMMENTS MADE BY
DEFENDANT PERTAINING TO THE
DISCRIMINATION CLAIM ALLEGED ABOVE.

Incidents bellow organized by Chronological order

- 1- Before I start I want to show you my job evaluation performance signed by my supervisor Richard Eaves on 5-20-2021 showing I have high scores in my evaluation. Please see exhibit (1)
- 2- I get hired with the university of Texas in Austin hired on 10-28-2019
- 3- On October -2020 I was with my coworker Armando Ortiz working in the mechanical room at Belmont Building, Randal Kobza showed up in the mechanical room and he was eating pistachios and start throwing pistachio shells on me I told him "stop doing that I am not your trash cane "this happened in front of Armando Ortiz we can request subpoena witness later. Also I reported the incident to the investigation department to Mona Maali on March 2021 using zoom interview meeting.
- 4- On 7-3 -2020, I have incident with my coworker Randall Kobza he came up to me and made joke about my language's comprehensive in front of my coworkers by saying "Do you know why you the only person laughing here ? I asked him why? He answered because you have language barriers" I reported it to my supervisor, also I reported another incident with another coworker her name dabbi manning she was making jokes about how I write my work order, I reported both incidents to my supervisor. No action taken from the university see exhibit (2)
- 5- On September- 7- 2020 again I have another incident with Randall Kobza, he came up to me in the workplace and he gave me a weird look, I asked him do you hate me ? He looks at me and answered "I don't hate you, fucking Arabs" and he left. I reported to the investigation department. Also I indicated it in my mail on 9-1-2021. No action taken from the university. everything documented see exhibit (3)

- 6- On September -2-2020, I have another incident with another employee he is the director of maintenance at the stadium building his name Michael Rodriguez, he was harassing and bullying me every time I go do work on his building, he even told me “we don’t need you here you will not get paid for the work hours you spent here” I reported to HR and inclusion office, they did nothing about it, see exhibit (4)
- 7- On September -2-202, my supervisor Richard eaves asked me to move to different department, because I complaint about Michael Rodriguez. see exhibit (5)
- 8- After I refused to move to different department my supervisor Band me from doing work at the stadium building. After that I complaint to HR against my supervisor because he was bias and sided with Michael Rodriguez, my supervisor band me from doing at that building. This is clear evidence of retaliation because he banding me from doing work in specific building and asking me to leave the department and he knows we are going to lose one of our technicians his name rodny Bettler because he will be retired in couple months and we will be short in stuff soon, No action taken from the university, all this info documented on emails.
- 9- On 2-26-2021, again my coworker Randall Kobza he called me a “Terrorist and accused me bombing a childcare building in Iraq” I have a witness his name Michael Brown for that incident and he submitted his testimony to my supervisor written and signed by him on march -1-2021, I reported this incident to HR on 2-26-2021, this is clear evidence showing the pervasive harassment I was dealing with in the workplace, all this info documented on emails. see exhibit (6)
- 10- On 3-1-2021, Michael Brown submitted his testimony to my supervisor as a witness with a document signed and written by him for the incident when Randall Kobza called me a terrorist, in his testimony he confirm that Randall Kobza called me a terrorist and accused me bombing a childcare building in Iraq, please see his testimony in exhibit (7)

- 11- On 3-8-2021, I complained to HR against my supervisor's retaliation. I indicated In my complaint my supervisor didn't assign a car for me to do my job off campus, there are five buildings off campus I have to visit weekly, and I was borrowing cars from my coworkers to do my job. There are three employees their names E.J TORREZ , JASON FLOYD and ADAM SERNA they all got hire after me and they all received their cars after 2 months of their employment, this is clear evidence showing retaliation and the poor treatment I was facing in my department. No action taken from the university, all this info documented on emails. see exhibit (8)
- 12- On 3-26-2021, my supervisor start retaliates against me by not approving my timesheet hours and that pushed me to contact payroll to approve my hours. Payroll corrected the hours and told me that the problem was my supervisor didn't approve my work hours, all this info documented on emails. I complained to HR about see exhibit (9) and exhibit (10)
- 13- On 3-31-2021, I asked the university to provide me the result of the investigation regarding my complaints about my supervisor's retaliation, and as usual no response see exhibit (11)
- 14- On 4-1-2021, I asked the university to provide me the result of the investigation regarding my complaints about Michael Rodriguez retaliation, and as usual no response see exhibit (12)
- 15- On 4-6-2021 I filed charge of discrimination with EEOC against the university; this charge indicated the incidents above. See exhibit (13)
- 16- On 4-9-2021, again I have another harassment incident from Randall Kobza, during the work hours I was in in front of our department trying to backing up my car, Randall Kobza drove very fast and very close to me to park beside my car while there was a lot of empty

spots in the parking lot, he was so close to my car that forced me to stop my car to prevent the incident, also when he parked beside my car he didn't left enough space between my car and his car, I couldn't even open my door to get out my car, he left two feet between my car and his car. I reported to HR and as usual no Action was taken. This showing the pervasive harassment and the continued offensive behaviors I was dealing with in the work space. See exhibit (14)

17- On 5-3-2021 my coworker Michael Brown came up to me and told me that the legal department sent to him and other coworkers an email telling them "to not remove anything related to Mahmood's employment from their emails", "and he stated "the email sound bad and its look like they don't want to help me out"

I asked him to show me that email but he refused. So I would like to request subpoena of document, because that email will reveal the truth to the court.

18- On 5-25-2021, when I came to my desk in the morning around 7.30 am I saw all the trash in the shop get dumbled underneath my chair and my desk. I called my supervisor and showed him the hate and the harassment I was facing; he looked at it and kept silent and left to his office. On 6-30-2021, I reported this incident to HR and investigation department, and as usually no action has been taken. If the university wants to know who did that, they could easily found out, because we have a schedule for cleaning the shop every day, and if they checked the schedule they will be able to see the person who was responsible for the cleaning that day, which was Randal Kobza. But they didn't care. That's how the university supported and maintained the hostile work environment in the workplace which affected me mentally. Some days when I wake up in the morning and heading to the work its look like I was heading to the jail. I have a witness his name Michael brown he saw the trash underneath my desk and the chair while all the shop was clean. See exhibit file (40)

19- On 6-4-2021 my supervisor start retaliate against me when he started applying new policy on me when he asked me to request a work order before I start working on anything, which this never happened before he never told us that before. As I explained to HR usually when we found emergency issue we start working on it and then call the shop to request a work order, No action taken from the university, all this info documented on emails. I would like to request a motion of witness to my coworker Armando Ortiz to confirm what I am saying. I reported to HR, see exhibit (15)

20- On 6-10-2021, I resubmitted a complaint about my supervisor's retaliation to the HR, see exhibit (16)

21- On 6-15-2021, the university closed my complaint against my supervisor, that's clear evidence of retaliation from the university. see exhibit (17)

22- On 7-13-2021, I called HR asking about the result of my complaints against Randall Kobza they send me email saying that they issued him a diversity online training on 7-13-2021 (after a year of Randall's harassment the university decided to issue a diversity online training, and its issued in the same day I asked about the result of investigation) obviously if I didn't ask about the investigation result they won't do anything about it. No write-up no discipline action! see exhibit (18)

23- On 12-9-2020 I applied to Supervisor, Building Optimization Team position and on 4-5-2021, I applied to Project Manager position, but unfortunately the university discriminated and retaliated against me they didn't even send me an email saying I am not selected to the positions I applied for, see exhibit (42)

On July- 2021 I applied to instrument and control technician II position in my department and my supervisor chose my coworker who has lower skills than mine. My supervisor told me," he chosed him based on seniority"

On 7-21-2021 I complained to the inclusion office and the investigation department about the discrimination in the hiring process, see exhibit (19). No action taken from the university, all this info documented on emails. This is clear evidence of discrimination.

24- On 7-28-2021 again I have another incident with Randal Kobza on the workplace he came to me and approached me in confrontation attitude and offensive body language, like someone who want to start a physical fight, while I was walking out the bathroom and he told me "Are you ok " it was so weird because we never talked since the incident happened when he called me a terrorist, he was harassing me and he tried to provoke me , this is clear evidence of the pervasive harassment and the hostile work environment I was dealing with, I reported to HR and as usual No action taken from the university, all this info documented on emails, see exhibit (20)

25- On 7-28-2021, I contacted HR and inclusion office, asking about the results of the investigations because I was dealing with same hostile work environment and I told them it's getting even worst , see exhibit (21)

26- On 9-1 -2021, I sent email to university's employees included the president, HR, inclusion office and investigation department. I indicated all the incidents above that showing discrimination, harassment and retaliation I was facing at the university since I start work there, No action taken from the university, all this info documented on emails. I believe this mail was the reason behind my termination , see exhibit (22)

27- On 9-3-2021, I emailed the investigation department asking them to provide answers to my questions about three cases Michael Rodriguez, my supervisor and Randall Kobza. Also I informed them that I had meeting with inclusion office regarding those three cases and they told me they can't pursue any investigation that in process with the investigation department and I should contact the investigation department to ask. See exhibit (23)

28- On 9-7-2021, the investigation department responds to me saying they didn't handle the complaint regarding Michael Rodriguez, and the inclusion office closed it on 10-22-2020. And they added my recent complaints regards my supervisor and Randall Kobza are still open. See Exhibit (24)

Same day on 9-7-2021 I sent email to both departments inclusion office and investigation department also the president informed them. The inclusion office told me the case regarding Michael Rodriguez transferred to investigation department and they close it. And after I contacted the investigation department and asked them about Michael Rodriguez's case they told me they didn't handle that case and the inclusion office closed the case on 10-22-2020, also they added that both cases regarding Michael Rodriguez and Richard eaves still pending!!! See exhibit (25)

Your Honor, if you see exhibits (23) , (24) and (25) above showing both departments passing the buck and didn't want to tell me the truth, Inclusion office told me Michael Rodriguez's case transferred to investigation department and they closed it. The investigation department told me they didn't handle Michael Rodriguez's case and the inclusion office closed the case on 10-22-2020.

Also the investigation department told me Randall kobza's case still open and I know the university closed that case on 7-13-2021 and they gave him diversity online training, see exhibit (24) in addition to that he retired on September -1- 2021 so why his case still open! that doesn't make any sense?!.

Also the investigation department told me that my supervisor's retaliation case still open and I know the university closed the case regarding my supervisor's retaliation on 6-15-2021, because I received email from Maali Mona intake with investigation department on 6-15-2021 saying the university closed the case regarding my supervisor's retaliation. See exhibit (17)

From the above incidents its very clear conclusion that both departments were passing the buck and didn't want to tell me the truth and this is a very clear evidence of retaliation and negligence from the university.

- 29- On Thursday 9-9-2021 my supervisor issued a disciplinary letter to me this letter full of false information and accusations, he asked me to response to his letter on Friday 9-10-2021 the response should be I accept the letter and keep my job or resign. see exhibit (26)
- 30- On Friday 9-10-2021 I respond to my supervisor with email saying “I will respond to the disciplinary letter on Monday 9-13-2021 or Tuesday 9-14-2021 because I need more time”. see exhibit (27)
- 31- On Monday 9-13 -2021 my supervisor sent me intent of termination letter. See exhibit (28)
- 32- On the same day Monday 9-13-2021, I respond to my supervisor with disputation letter showing the false information and the accusations on his letter, see exhibit (29)
- 33- On 9-17-2021 the university terminated my employment considered me insubordinate to my supervisor’s instructions, because I disputed two folds in the disciplinary letter. Basically they want me to admit things I never did it or Resign, I would rather get terminated than admitting things I never did. See exhibit (30)
- 34- I appealed the termination decision asking the university to corrected the disciplinary letter and remove the false information and the accusations so I can accept the letter but they refused. See exhibit (31)
- 35- On 12-23-2021, I filed another charge of retaliation with EEOC against The University of Texas in Austin. Please see exhibit (32)
- 36- I applied to unemployment with workforce commission and the university denied my unemployment.

37- The university responds to the workforce commission with two documents the first document saying they terminated my employment because “they realized I will be argumentative and accusatory” And the second document saying “that you didn’t perform your work to the employer’s standards although you was previously demonstrated you were capable of doing adequate work” Which both documents contradicted what the termination letter said. See exhibit (33) and See exhibit (41)

38- I was a patient with lone star Clinic behavioral health, since 4-21-2021 till 9-13-2021, I diagnosed with Anxiety disorder and major depressive disorder, because what I was dealing with in the university. The medical report showing my health condition related to the work place conflict. See exhibit (34) and exhibit (35)

39- On 9-20-2022 I received right to sue letters for both charges (451-2021-01272) and (451-2021-03083) see exhibit (36) and exhibit (37)

Very important information: Honorable judge Pitman, I would like to inform you that my supervisor accused me in the disciplinary letter saying that I called my coworker Bradly roger a liar also he accused me that I threated employee and used profanity word, which that not true, and that pushed me to dispute the disciplinary letter which leded to terminated my employment.

The disciplinary letter has three folds and I disputed two folds.

First fold: The University accused me that I threated HR employee and used profanity word with HR Employee at UT health during a phone call when I was asking about my covid test Result, Which I denied it in my disputing letter.

On 9-13-2021, during the work force commission's hearing Miss lowis the HR employee with UT Health department stated that I said F word during a phone call was made between me and her. I asked her if there is any witness was there heard me said F word through the speakers she answered NO, I asked her again if the phone call was recorded she answered No.

Here it showing that the university took one side story and they believe her and did not believe me! Is that fair? Is that the right way to conduct investigation? This is clear evidence showing my employer's retaliation. Please listen to exhibit (audio digital evidence) The Hearing testimony I have it recorded its attached in flash ram labeled Mss. Lowis testimony.

By the law the university should provide enough evidence to establish their allegation, and since their evidence cannot meet its burden of proof, they should accept my disputing letter because their allegation based on insufficient evidence and retaliation.

Second fold : The university want to punish me because on 9-1-2021 I sent email to my coworkers and UT employees included HR and Investigation department, in that email I complaint about all the Harassment, retaliation and discrimination I was facing since I start working there. See exhibit (22)

Basically the university retaliated against me because I was complaining about discrimination instead protected me, and they put that in written.

Third fold: my supervisor accused me in the disciplinary letter saying I called my coworker Bradly roger a liar. During the work force commission's hearing I asked my supervisor If he heard me I called my coworker Bradly roger a liar he answer "I can't swear that I heard you said that word" so here you can see that my supervisor contradicting himself because in the disciplinary letter he accused me that I called Bradley Rogers a lair, and in his testimony he said (No), Please listen to exhibit (audio digital evidence) my supervisor testimony I have it recorded, it attached in flash ram labeled my supervisor testimony.

In addition to that I have a witness his name Stephen freeman I texted him and asked him if he heard me called Bradly Roger a liar he texted me back and said "No sir I didn't hear that" I took screen shot and attached it my disputing letter and send it to HR to show them that my supervisor wasn't saying the truth, and as usual they didn't care. Please see exhibit (38)

Honorable Judge Pitman, from the incidents above you can see the double standards that the university conducting between me and Randall kobza. After all the harassment and discriminatory comments he made against me, the university didn't discipline him, but I received a disciplinary letter full of accusations and false information with punishment for 12 months with no raise, and they terminated my employment because I disputed that letter. Is that fair?

Honorable Judge Pitman, I believe The University of Texas in Austin violated the civil law Title VII of the Civil Rights Act of 1964 (42 USC §§ 2000e et seq.) also they violated the civil right laws 42 USC section 1981 for racial and national origin harassment.

42 U.S.C. § 1981 prohibits race discrimination in the making and enforcing of contracts. It prohibits racial discrimination against whites as well as nonwhites. *See McDonald v. Santa Fe Trail Transp. Co.*, 427 U.S. 273, 295 (1976) (Section 1981 was intended to "proscribe discrimination in the making or enforcement of contracts against, or in favor of, any race"). *In Runyon v. McCrary*, 427 U.S. 160 (1976), the Supreme Court held that Section 1981 regulated private conduct as well as governmental action.

The University of Texas in Austin maintained Hostile work environment, allowed pervasive harassment, discrimination, Retaliation, negligence my complaints and also wrongful termination. The University Allowed unwelcome comments in the workplace are sufficiently severe. Those harassments incidents were occurring consistently and purposefully with me which violated my rights and make it so hard to do my work.

Here I am respectfully asking **Honorable Judge Pitman** to request a jury to serve my trial.

I am suing the University of Texas in Austin for discrimination, maintained hostile work environment, harassment, Retaliation, wrongful termination and also negligence.

I am respectfully asking the Honorable court to accept my complaint and reveal the justice.

Legal Conclusions

Based on Title VII religion, race, origin, national claim, the Plaintiff was able to prove the following elements to make out a prima facie case:

- (1) Plaintiff a member of a protected class;
- (2) Plaintiff qualified for his position; see exhibit (1)
- (3) Plaintiff suffered an adverse employment action. See exhibit (34) and exhibit (35)
- (4) The adverse action occurred under circumstances giving rise to an inference of discrimination, during the assessment. After plaintiff filed a charge of discrimination with EEOC on 4-6-2021, the plaintiff faced harassment and retaliation which led to employment termination. Plaintiff able to prove the elements required to establish a prima facie case of religious discrimination as he was subjected to different treatment.

Based on Title VII retaliation the Plaintiff was able to prove the following elements to make out a prima facie case:

- (1) Plaintiff proved what he reasonably and in good faith believed to be an unlawful employment practice or plaintiff participated in the EEOC process; the plaintiff complained multiple times about the harassment, discrimination and retaliation. Also he was under protected activates when he filed with EEOC on 4-6-2021.
- (2) The employer subjected the plaintiff to adverse treatment; which they forced him to accept disciplinary letter was full of accusations or resign.

- (3) There was a causal connection between the plaintiff's protected activity and the adverse treatment during the assessment.
- (4) *The employer knew and known of the harassment and failed to take adequate remedial action. Id. at 678*

There was multiple causal incidents connected during the assessment led to employment termination, you can check all the incidents after the plaintiff filed with EEOC on 4-6-2021, with all the information above the plaintiff was able to prove the elements required to establish a prima facie case of retaliation.

Based on *E.E.O.C. "the conduct complained of must be both objectively and subjectively offensive"* *E.E.O.C. v. WC&M Enterprises, Inc.*, 496 F.3d 393, 399 (5th Cir. 2007). The plaintiff perceives the environment as hostile, the conduct also.

To determine whether the plaintiff work environment was objectively offensive, courts consider the totality of the circumstances including

- 1-Frequently of the discriminatory conduct
- 2- Its severity
- 3- Whether it is humiliating or an offensive utterance,
- 4- Whether it interferes with an employee's work performance.

There is more than one factor above can be determine and give rise to a viable title VII claim as well as a continuous pattern of much severe incidents of harassment. See attached evidence documents provided.

The plaintiff established that the employer

- (1) Knew or should have known of the harassment in question, and
- (2) Failed to take prompt remedial measures. *See Hill v. New Alenco Windows, Ltd.*, 716 F. Supp. 2d 582, 601 (S.D. Tex. 2009);

The plaintiff able to make a prima facie hostile work environment claim could showing that the employer failed to take action against a known harassment issue. *Plaintiff. Hill*, 716 F. 3d at 602.

Points below showing the University broke their policy

1-The university broke their policy when they addressed my complaints under *chapter 13. Speech, expression, and assembly. Sec. 13–204. Harassment* – No person will engage in conduct that constitutes harassment of another person or make, distribute, or display on the campus or through University information resources any statement that constitutes harassment of any other person. This Section applies to all speech at UT Austin, all speech made using University resources, including speech that is part of teaching, research, or other official functions of the University whether in person or not, and whether oral, written, or symbolic.

Harassment – hostile or threatening conduct or speech, whether oral, written, or symbolic, that

- a. is sufficiently severe, pervasive, and objectively offensive to create an objectively hostile or threatening environment that interferes with or diminishes the victim’s ability to participate in or benefit from the services, activities, or privileges provided by the University; and
- b. Personally describes or is personally directed to one or more specific individuals. See exhibit (43)

2- The university broke their policy when they addressed plaintiff’s complaints under their *Policies and Procedures for Discipline and Dismissal of Employees*

III. Discipline and Dismissal Policy and Procedures - Misconduct

XI. Disorderly conduct, horseplay, harassment of other employees (including sexual harassment) or use of abusive language on the premises; see exhibit (44)

3- the university broke their policy when they addressed plaintiff’s complaints under *appendix I : nondiscrimination policy - C. Discrimination. - D. Harassment.*

4. Miscellaneous - B. Retaliation prohibited. See exhibit (45)

4- The university broke their policy when they addressed plaintiff's complaints *under appendix J : prohibition of campus violence. B. Definition. Under campus violence. - C. Campus violence, prohibited - II . Procedures. - G. Retaliation prohibited.* See exhibit (46)

Attachments

46 Attachment files and flash ram have three digital audio recorded testimonies belong to Ms. Lowis HR employee, Richard Eaves and Mahmood Altabra

8b. List any **witnesses** who would testify for plaintiff to support plaintiff's allegations and the substance of their testimony:

Michael Brown : he is witnessed the incident related terrorist comment on 2-26-2021

Stephen Freeman : he witnessed the incident on 9-9-2021 with Bradley roger, he can confirm that I didn't call Bradley roger a liar

Armando Ortiz: he can be witness to show that 6-4-2021 my supervisor start retaliate against me when he started applying new policy on me,

Because he knows we usually start do the work when we found emergency issue, after that we request the work order and that was normal daily thing we been doing, which that will prove my supervisor starting applying new policy on me after I filed charge of discrimination with EEOC .

8c. List any **documentation** that would support plaintiff's allegations and explain what the documents will prove:

Attachments

46 Attachment files and flash ram have three digital audio recorded testimonies belong to Ms. Lowis HR employee, Richard Eaves and Mahmood Altabra

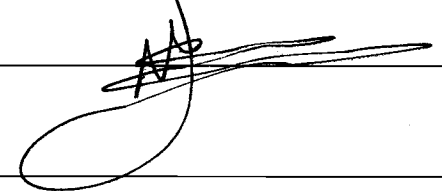
9. The above acts or omissions set forth in paragraphs 7 and 8 are:
- ☐ still being committed by defendant.
- ☒ no longer being committed by defendant.
10. Plaintiff should attach to this complaint a copy of the charge filed with the Equal Employment Opportunity Commission. This charge is submitted as a brief statement of the facts supporting this complaint.

WHEREFORE, plaintiff prays that the Court grant the following relief to the plaintiff:

- ☐ Defendant be directed to employ plaintiff.
- ☒ Defendant be directed to re-employ plaintiff.
- ☐ Defendant be directed to promote plaintiff.
- ☒ Defendant be directed to compensate for all the damage the defendant caused from waste wages, mental damage, unemployment wages, loss of education opportunity also health insurance expenses and that the Court grant such other relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

12-20-2022
Date


Signature of Plaintiff

4008 Ignacio Drive
Address of Plaintiff

<u>Austin</u>	<u>Texas</u>	<u>78744</u>
City	State	Zip Code

Telephone Number(s) 512-822-9654